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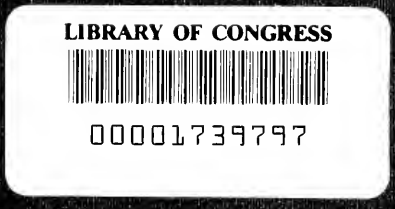

PROCEEDINGS

IN THE

Supreme Court of the United States,

AT THEIR SESSION HELD

MONDAY, JANUARY 17, 1870,

IN RELATION TO THE DEATH OF

HON. EDWIN M. STANTON.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1870.

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SUPREME COURT OF THE UNITED STATES.

JANUARY 17, 1870.

Upon the coming in of the Court, the Attorney General addressed them as follows:

May it please your Honors:

Since your last adjournment the emblems of public mourning have been again displayed in the capital of the nation under circumstances which press upon the attention of this court with a peculiar and touching solemnity. A great man—great by the acknowledgment alike of those who feared or hated him, and of those by whom he was trusted and honored; a lawyer, a statesman, selected and confirmed, though not commissioned, as an Associate Justice of the Supreme Court of the United States—has passed away from among us. EDWIN M. STANTON, in the maturity of life, with a capacity for public service already demonstrated, in the security of established fame, seemed to our mortal vision about to enter upon a new and long career of honor and usefulness. But such was not the will of Heaven: "*Dis aliter visum.*"

It has seemed to his brethren of the Bar a fit occasion to express their regard for his memory, and

they have charged me with the official and grateful duty of presenting to your honors the resolutions which have been adopted at their meeting this morning.

Of Mr. STANTON as a lawyer, it is enough to say that he had risen to the foremost rank in his profession. He had adequate learning, untiring industry, a ready and retentive memory, clear comprehension of principles, the power of profound and cogent reasoning, and unquestionable integrity; and he gave to the cause of his clients a vigor, energy, and zeal, which deserved and commanded success.

But it is not of the lawyer, eminent as he was in the science and practice of the law, that men chiefly think as they remember him. His service to mankind was on a higher and wider field. He was appointed Attorney General by Mr. Buchanan, on the 20th of December, 1860, in one of the darkest hours of the country's history, when the Union seemed crumbling to pieces without an arm raised for its support; when "without" the public counsels "was doubting, and within were fears;" when feebleness and treachery were uniting to yield whatever defiant rebellion might demand; and good men everywhere were ready to despair of the Republic. For ten weeks of that winter of national agony and shame, with patriotism that never wavered, and courage that never quailed, this true American, happily not wholly

alone, stood manfully at his post, "between the living and the dead," gave what nerve he could to timid and trembling imbecility, and met the secret plotters of their country's ruin with an undaunted front, until before that resolute presence the demons of treason and civil discord appeared in their own shape, as at the touch of Ithuriel's spear, and fled baffled and howling away.

His published opinions as Attorney General fill but nine pages, but the name that was signed to them had in that brief time become known throughout the land as the synonym of truth, honor, and fidelity.

Although of a different political party, he was called by Mr. Lincoln into his Cabinet in 1862, as the Secretary of War. But it was at a time when all party divisions had become insignificant, and all party ties trivial, compared with those great duties which engrossed the thoughts and demanded the care of every patriot. He brought to his great trust a capacity for labor that seemed inexhaustible; unflinching courage, indomitable will, patience and steady persistence, which no fatigue could weary and no mistakes or misfortunes divert; a trust in the people that never faltered, an integrity which corruption never dared to approach, and a singleness of purpose which nothing could withstand. That purpose was to crush the rebellion — and woe to that man who came, or seemed to come, between that

purpose and its execution! Coming from civil life, I suppose there is no sufficient evidence that he was, or ever became, a master of the art of war; but the problem before him was to find those who were, and to bring all the resources of the country with unstinted measure to their support.

We might address him as one of those

> "Chief of men, who, through a cloud,
> Not of war only, but detractions rude,
> Guided by faith and matchless fortitude,
> To peace and truth thy glorious way has plowed."

Undoubtedly he had faults and failings. He was said to be despotic and overbearing, and he may have been sometimes unjust; but his work was done in a time when there was little chance for deliberation, and when "the weightier matters of the law" left no time for "tithing mint and anise and cummin." He felt that the life of the nation was in his hands, and, under that fearful responsibility, he could not always adjust with delicate hand the balance of private rights and wrongs. It is said that his manners were sometimes discourteous and offensive. Who can wonder that that wearied and overburdened man, with such pressure on brain and nerve, was sometimes irritable and unceremonious in his intercourse with shirking officers and peculating contractors, and the crowd of hungry cormorants and interminable bores who perpetually sought access to him; and sometimes confounded with such those who

deserved better treatment? But the American people knew that he was honest, able, and faithful. He never stopped for explanation, or condescended to exculpate himself.

I have thought it one of the highest and finest traits of his character, that he bore in grim silence all accusations, and stood manfully between his chief and popular censure for acts which he had neither originated nor approved. It was perhaps the highest triumph of his official career, and the final proof of how justly his confidence in his countrymen was bestowed, that he conducted and carried through the military draft — that severest trial to a free people — when the country, in the time of her direst need, ceasing to entreat, commands the services of her sons. He had his reward; and, like the President whom he served —

> "Ill thought, ill feeling, ill report lived through,
> Until he heard the hisses change to cheers,
> The taunts to tribute, the abuse to praise,
> And heard them with the same unwavering mind."

He saw the rebellion crushed and the integrity of the nation vindicated. The people, who had learned to know that he was a tower of strength in the time of civil war, who had felt that their cause would never be abandoned or betrayed by him, and to whom his presence in office gave a sense of protection and security, have hailed with joy the prospect which so lately opened of transferring him to a new post of

duty in this high tribunal. They knew that the statesman who had found in the Constitution all the powers necessary for its own maintenance, would, as a jurist, not fail to find there all the powers needful for the protection throughout the entire country of that civil liberty which it was ordained to secure. But he was already worn out in their service, and gave his life for them as truly as any one who ever perilled it on the field of battle.

Mr. Chief Justice, the lesson of this life is a lofty one. The time is soon coming when men will recognize the high natures who, in this period of civil strife, have arisen above the ordinary level of mankind, and are entitled to their gratitude and honor. Upon those towering peaks in the landscape, the eye will no longer discern the little inequalities and roughnesses of surface. Already upon the canvas of history some figures are beginning to emerge. They are not those of self-seekers, or of those who were greedy of power or place, but of the men who, in the time of public trial and public danger, with none but public objects, have done much for their country and mankind. Among these can his cotemporaries fail to discern — will not posterity surely recognize — the lineaments of EDWIN M. STANTON? A restored country is his monument.

> "Nothing can cover his high fame but Heaven!
> No pyramids set off his memories
> But the eternal substance of his greatness,
> To which I leave him."

I now submit to your Honors the proceedings of the meeting of the Bar, and make the motion which one of the resolutions suggests.

At a meeting of the members of the Bar of the Supreme Court of the United States, held at the Court Room, in the Capitol, on the 13th day of January, 1870

Senator Edmunds, of Vermont, was appointed chairman, and R. M. Corwine, of Ohio, secretary.

On motion,

The Attorney General, J. M. Carlisle, esq., and Hon. Robert S. Hale, were appointed a committee to draft and report resolutions, who, at an adjourned meeting, on the 17th of January, reported as follows, which report was unanimously adopted, viz:

"Edwin M. Stanton, for many years a leading and honored member of this Bar, formerly Attorney General of the United States, and Secretary of War during the war for the preservation of the Republic, recently nominated and confirmed to fill a prospective vacancy on the bench of the Supreme Court of the United States, distinguished by his professional abilities and attainments, and still more distinguished and endeared to the country he contributed so greatly to save, by his energy, patriotism, and integrity, having, on the 24th day of December, 1869, laid down a life devoted to the cause of his country and worn out in

her service, the members of the bar of the Supreme Court of the United States, assembled to render honor to his memory, as an expression of their regard and reverence for his public and private virtues, and of his most useful and patriotic career, have

"*Resolved*, That we desire to express our profound and thorough appreciation of the private worth and public merits of Mr. STANTON; of the loss sustained by the national judiciary in his death, and of the measureless debt of gratitude due to him from the citizens of a country saved from destruction in great degree by his untiring labors, large comprehension, and unswerving integrity.

"*Resolved*, That the Attorney General be requested to lay this expression of our feeling before the court, and to move that the same be entered upon the minutes of the term.

"*Resolved*, That our chairman communicate a copy of these proceedings, and of such action as the court may take thereon, to the widow and children of our deceased brother, with the assurance of our sympathy and respect."

The Chief Justice remarked, in reply:

The Court unites with the Bar in acknowledging the private worth, the professional eminence, and the illustrious public services of Mr. STANTON, and in

sorrow that the country has been deprived, by his premature decease, of the great benefits justly expected from his remarkable attainments and abilities in the new sphere of duty to which he had been called.

We all anticipated from his accession to the bench increased strength for the court and most efficient aid in its deliberations and decisions. We indulged the hope that his health, impaired by oppressive anxieties and arduous labors as the head of the Department of War, would be fully restored, under the influence of the calmer and more regular course of this tribunal, and that prolonged life would afford him many opportunities of establishing additional claims upon the gratitude and honor of his country in the upright performance of judicial duty.

But Providence has ordered otherwise. He was not even permitted to become in fact a member of this court. He had hardly been nominated and confirmed to fill the vacancy which will occur a few days hence, through the prospective resignation of our honored brother, Mr. Justice Grier, when death entered upon the scene and closed his earthly career.

Our deepest sympathies are with his family and friends in their bereavement. We mourn their loss as our own loss, as the loss of the profession which he adorned, and of the country which he served.

The proceedings of the Bar, the address of the Attorney General, and this response, will be entered upon the minutes, and, as a further mark of respect, the court will now adjourn without transacting any business.

The court thereupon adjourned.

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